

**TRANSMITTAL LETTER
(General - Patent Pending)**

Docket No.
114745-009

In Re Application Of: **Wagner, Ernst**

| | | | | | |
|--------------------------------------|---------------------------------|----------------------------|------------------------------|----------------------------------|------------------------------------|
| Application No. 10/500,437 | Filing Date 6/28/2004 | Examiner Unknown | Customer No. 24573 | Group Art Unit Unknown | Confirmation No. Unknown |
|--------------------------------------|---------------------------------|----------------------------|------------------------------|----------------------------------|------------------------------------|

Title: **Method and Apparatus for Measuring Oxygen Content**

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

**English translation of International Preliminary Examination Report (7 pages); and
Return receipt postcard.**

in the above identified application.

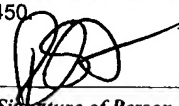
- ☒ No additional fee is required.
- ☐ A check in the amount of _____ is attached.
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Signature

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Dated: **September 3, 2004**

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From the INTERNATIONAL BUREAU

PCT

**NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

(PCT Rule 72.2)

To:

RUPPRECHT, Kay
Meissner, Bolte & Partner
Postfach 86 06 24
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ALLEMAGNE

EING 16. Aug. 2004

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| Date of mailing (day/month/year) 12 August 2004 (12.08.2004) | IMPORTANT NOTIFICATION |
| Applicant's or agent's file reference R/WAS-076-PC | |
| International application No. PCT/EP2002/011648 | International filing date (day/month/year) 17 October 2002 (17.10.2002) |
| Applicant WAGNER ALARM-UND SICHERUNGSSYSTEME GMBH et al | |

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, JP, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

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3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
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Translation

PATENT COOPERATION TREATY

PCT/EP2002/011648



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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

| | | |
|--|---|---|
| Applicant's or agent's file reference R/WAS-076-PC | FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) | |
| International application No. PCT/EP2002/011648 | International filing date (day/month/year) 17 October 2002 (17.10.2002) | Priority date (day/month/year) 28 December 2001 (28.12.2001) |
| International Patent Classification (IPC) or national classification and IPC G01N 33/00 | | |
| Applicant WAGNER ALARM-UND SICHERUNGSSYSTEME GMBH | | |

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|---|
| <p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>4</u> sheets.</p> |
| <p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p> |

| | |
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| Date of submission of the demand 10 July 2003 (10.07.2003) | Date of completion of this report 26 March 2004 (26.03.2004) |
| Name and mailing address of the IPEA/EP | Authorized officer |
| Facsimile No. | Telephone No. |

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2002/011648

I. Basis of the report

1. With regard to the elements of the international application:*

- ☐ the international application as originally filed
- ☒ the description:
pages 1-14, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☒ the claims:
pages _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages 1-13, filed with the letter of 04 March 2004 (04.03.2004)
- ☒ the drawings:
pages 1/2-2/2, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____
- ☐ the sequence listing part of the description:
pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 02/11648

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | | |
|-------------------------------|--------|-----------|-----|
| Novelty (N) | Claims | 7, 8 | YES |
| | Claims | 1-6, 9-13 | NO |
| Inventive step (IS) | Claims | 7, 8 | YES |
| | Claims | 1-6, 9-13 | NO |
| Industrial applicability (IA) | Claims | 1-13 | YES |
| | Claims | | NO |

2. Citations and explanations

Reference is made to the following documents:

D1: DE 198 11 851

D6: US-A-4 177 787

D7: EP-A-1 092 975

- (1) The present application does not meet the requirements of **PCT Article 33(3)** since the subject matter of independent claims 1 and 9 is not inventive.

Claim 1:

D1 discloses a method of measuring the oxygen content in a closed targeted room, the method comprising the following steps (columns 2 to 4):

- an air sample is taken from the targeted room via a series of intake openings in an intake pipe system (column 3, lines 14 to 23);
- the oxygen concentration in the intake air sample is determined by means of an oxygen detector (column 4, lines 19 to 32).

The subject matter of claim 1 differs from **D1** in that:

- the oxygen concentration in the intake air sample is

- determined by means of a reference oxygen detector; the reading of the oxygen concentration in the intake air sample determined in b) is compared with the reading of the oxygen concentration from the reference oxygen detector;
- if the difference between the oxygen concentration reading from the oxygen detector and the oxygen concentration reading from the reference oxygen detector is exceeded, the oxygen detector or reference oxygen detector emits an incident signal.

The resulting technical effect is that the oxygen detector is checked to ensure that it is functioning satisfactorily.

Therefore the problem to be solved is that of modifying the existing method such that the functioning of the oxygen detector can be checked. Consequently a person skilled in the art seeking a solution to this problem would consider a document that is concerned with the checking of oxygen sensors; for example, whether they are contaminated with disturbing gases such as CO, HC or NO_x. In his search he would thus come across D6 (figures 7, 8 and 10; and columns 2 to 5), in which conclusions about the functioning of the oxygen sensor (5) are drawn from a comparison of the oxygen concentrations of the two oxygen sensors. An alarm system emits an incident signal if necessary (column 5, lines 18 to 31).

Therefore a person skilled in the art would combine the teachings of D1 and D6 and arrive at the subject matter of claim 1 without thereby being inventive.

Claim 9:

D1 additionally discloses a device for carrying out the method as per claim 1, with at least one intake pipe system for drawing in an air sample via different intake openings from the targeted chamber being monitored. The reference oxygen detector is disclosed in D6 (see the arguments put forward for claim 1).

(2) The following is noted with respect to the dependent claims:

claim 2: the additional features c) and d) are disclosed by D1 (column 4, lines 11 to 51) (PCT Article 33(3));

claim 3: the additional features b4) and b5) are disclosed by D1 (PCT Article 33(3))¹;

claim 4: D1 discloses a detector for detecting very different fire parameters (column 3, lines 9 to 30), including aerosols and conflagration gas contents (column 3, line 27) (PCT Article 33(3));

claim 5: CO₂ and CO are typical examples of conflagration gases, and so it is obvious to prepare a detector for these gases (PCT Article 33(3));

claim 6: the expressions "air quality" and "system for controlling the supply of fresh air" are unclear and give the impression that the subject matter

¹Claim 3 is unclear [German text] since it is not discernible whether the terms "Brandgrösse" and "Brandkenngrösse" are identical.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 02/11648

for which protection is sought does not correspond to the subject matter defined in the claims and therefore gives rise to uncertainty when the description is used to interpret the claims (PCT Article 6) (cf. PCT Guidelines paragraph III-4.3a) (PCT Article 33(3));

claims 10 and 11: see the arguments put forward as concerns claims 5 and 6 (PCT Article 33(3));

claim 12: the claim is unclear since in figure 2 the intake pipe is not integrated with the oxygen detector, detectors or conflagration gas sensors;

claim 13: technically conventional sensor; see D7 (columns 5 and 6) (PCT Article 33(3)).

(3) The newly submitted claims 7 and 8 appear to be novel and inventive.